



8011-01p  
SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-78300; File No. 4-701)

July 12, 2016

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing of Proposed Minor Rule Violation Plan

Pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19d-1(c)(2) thereunder,<sup>2</sup> notice is hereby given that on July 11, 2016, Investors' Exchange LLC ("IEX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed minor rule violation plan ("MRVP") with sanctions not exceeding \$2,500 which would not be subject to the provisions of Rule 19d-1(c)(1) of the Act<sup>3</sup> requiring that a self-regulatory organization ("SRO") promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.<sup>4</sup> In accordance with Rule 19d-1(c)(2) under the Act,<sup>5</sup> the Exchange proposed to designate certain specified rule violations as minor rule violations, and requested that it be

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<sup>1</sup> 15 U.S.C. 78s(d)(1).

<sup>2</sup> 17 CFR 240.19d-1(c)(2).

<sup>3</sup> 17 CFR 240.19d-1(c)(1).

<sup>4</sup> The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission is not considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

<sup>5</sup> 17 CFR 240.19d-1(c)(2).

relieved of the prompt reporting requirements regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis.

The Exchange proposes to include in its MRVP the procedures included in Exchange Rule 9.216(b) ("Procedure for Violation Under Plan Pursuant to Exchange Act Rule 19d-1(c)(2)") and violations to be included in Exchange Rule 9.218 ("Violations Appropriate for Disposition Under Plan Pursuant to Exchange Act Rule 19d-1(c)(2)").<sup>6</sup> According to the Exchange's MRVP, under Rule 9.216(b), the Exchange may impose a fine (not to exceed \$2,500) and/or a censure on any Member or associated person with respect to any rule listed in IEX Rule 9.218. If the Financial Industry Regulatory Authority ("FINRA") Department of Enforcement or the Department of Market Regulation, on behalf of the Exchange, has reason to believe a violation has occurred and if the Member or associated person does not dispute the violation, the Department of Enforcement or the Department of Market Regulation may prepare and request that the Member or associated person execute a minor rule violation plan letter accepting a finding of violation, consenting to the imposition of sanctions, and agreeing to waive such Member's or associated person's right to a hearing before a Hearing Panel or, if applicable, an Extended Hearing Panel, and any right of appeal to the IEX Appeals Committee, the Board, the SEC, and the courts, or to otherwise challenge the validity of the letter, if the letter is accepted. The letter shall describe the act or practice engaged in or omitted, the rule, regulation, or statutory provision violated, and

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<sup>6</sup> The Exchange received its grant of registration on June 17, 2016, which included approving the rules that govern the Exchange. See Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (File No. 10-222). The Exchange anticipates, upon effectiveness of its MRVP, to file a rule proposal pursuant to Section 19(b)(1) of the Act, and Rule 19b-4 thereunder, to amend Rule 9.218 to specify the violations to be subject to the MRVP. Exhibit A includes the entirety of Rule 9.216(b) and anticipated changes to Rule 9.218.

the sanction or sanctions to be imposed. Unless the letter states otherwise, the effective date of any sanction(s) imposed will be a date to be determined by IEX Regulation staff. In the event the letter is not accepted by the Member or associated person, or is rejected by the Office of Disciplinary Affairs, the matter can proceed in accordance with the Exchange's disciplinary rules already approved by the Commission, which include hearing rights for formal disciplinary proceedings.<sup>7</sup>

The Exchange proposes that, as set forth in Exchange Rule 9.218, violations of the following rules would be appropriate for disposition under the MRVP: Rule 2.160(p) – Continuing Education Requirements; Rule 4.511 (General Requirements related to books and records requirements); Rule 4.540 (Furnishing of records); Rule 5.110 (Supervision); Rule 8.220 (Automated submission of trading data requested); Rule 11.151(a)(1) (Market Maker two-sided quotation requirement); Rule 11.290 (Short sales); Rule 11.310 (Locking or crossing quotations in NMS stocks); and Rule 11.420 (Order audit trail system requirements).

Upon the Commission's declaration of effectiveness of the MRVP, the Exchange will provide to the Commission a quarterly report for any actions taken on minor rule violations under the MRVP. The quarterly report will include: the Exchange's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the sanction imposed, the number of times the rule violation occurred, and the date of the disposition.

Additionally, the Exchange proposes that, going forward, to the extent that there are any changes to the rules applicable to the Exchange's MRVP, the Exchange hereby requests that the Commission deem such changes to be modifications to the Exchange's MRVP.

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<sup>7</sup> See, Chapter 9 generally.

## I. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the Exchange's proposed MRVP, including whether the proposed MRVP is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 4-701 on the subject line.

### Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number 4-701. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed MRVP that are filed with the Commission, and all written communications relating to the proposed MRVP between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the

proposed MRVP also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4-701, and should be submitted on or before [insert date 15 days from publication in the Federal Register].

II. Date of Effectiveness of the Proposed Minor Rule Violation Plan and Timing for Commission Action

Pursuant to Section 19(d)(1) of the Act and Rule 19d-1(c)(2) thereunder,<sup>8</sup> after [insert date 15 days from publication in the Federal Register], the Commission may, by order, declare the Exchange proposed MRVP effective if the plan is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act. The Commission in its order may restrict the categories of violations to be designated as minor rule violations and may impose any other terms or conditions to the proposed MRVP, File No. 4-701, and to the period of its effectiveness, which the Commission deems necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Robert W. Errett  
Deputy Secretary

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<sup>8</sup> 15 U.S.C. 78s(d)(1); 17 CFR 240.19d-1(c)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(44).

